


FILED

UNITED STATES DISTRICT COURT

JUN 17 2020

for the

Eastern District of North Carolina

PETER A. MOORE, JR., CLERK
US DISTRICT COURT, EDNC
BY  DEP CLK

United States of America

v.

Richard RUBALCAVA

Case No. 5:20-mj-1642-JG

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of May 30, 2020 in the county of Wake in the
Eastern District of North Carolina, the defendant(s) violated:

Code Section


18 U.S.C. § 844 (i)

Offense Description

Maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other real or personal property used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce.

This criminal complaint is based on these facts:

See attached affidavit, incorporated herein by reference.

☒ Continued on the attached sheet.On this day, Chad Edmonds
appeared before me via reliable electronic means, was
placed under oath, and attested to the contents of this
Criminal Complaint.Date: 17 June 2020City and state: Raleigh, NC

Complainant's signature

Chad Edmonds, Special Agent

Printed name and title



Judge's signature

James E. Gates, United States Magistrate Judge

Printed name and title

DWS

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA**

Probable Cause Affidavit

I, Chad Edmunds, hereinafter designated as affiant, having been duly sworn according to law, depose and state that:

1. Affiant is a Senior Special Agent/Certified Fire Investigator (SSA/CFI) with the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF") and have been so employed since October 2007. Affiant is currently assigned to the Raleigh, North Carolina Field Office, Charlotte Field Division. This affiant has received extensive training at the ATF National Academy in the investigation of firearms, arson, explosives offenses and alcohol and tobacco diversion. I have also received advanced training in arson investigations from the National Fire Academy, International Association of Arson Investigators and Oklahoma State University. This affiant is also a member of the ATF National Response Team (NRT), which responds to fire and explosives incidents nationwide.
2. This affiant has participated in multiple arson investigations that have led to successful federal prosecutions. Previously, this affiant was employed as a Lieutenant with the Apex Fire Department in the State of North Carolina for 1 year. Prior to serving as a Lieutenant with the Apex Fire Department, the affiant was a police officer with the Raleigh Police Department in the State of North Carolina for six years
3. As a result of your affiant's training and experience as an ATF Senior Special Agent/Certified Fire Investigator, your affiant is familiar with federal criminal laws, and has participated in the investigations of criminal violations of federal law, including, but not limited to, Title 18 United States Code Sections 844(f).
4. I make this affidavit in support of an application for the issuance of a criminal complaint against Richard RUBALCAVA (hereinafter "RUBALCAVA ") for the following violation:


(Two Counts) Title 18 U.S.C. § 844(i) – Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other real or personal property used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce

5. Information contained within this affidavit is based upon information from this Affiant's investigation, personal observations, training and experience, as well as information relayed to this Affiant by other law enforcement officers and or agents. I am not including every fact of the investigation, but only the necessary information needed to obtain probable cause that RUBALCAVA violated Title 18 U.S.C. § 844(i) (Two Counts)

FACTS IN SUPPORT OF PROBABLE CAUSE

6. On May 30, 2020, a protest took place in downtown Raleigh, North Carolina. As the protest progressed, multiple participants started breaking into and looting multiple businesses in the downtown area.
7. The Dollar General Express located at 149 East Davie Street, Raleigh, NC 27601 was one of the businesses that was broken into and looted. At approximately 2313 hours the Raleigh Fire Department was dispatched to the Dollar General Express for a commercial structure fire. When they arrived they discovered heavy smoke in the business.
8. The distribution center for this store is located in South Boston, Virginia. A majority of the stores merchandise travels from South Boston, Virginia to Raleigh, North Carolina.
9. Video surveillance was obtained from the Dollar General Express. The video shows RUBALCAVA enter the business at approximately 2219 hours and place numerous items in a Dollar General Bag. RUBALCAVA leaves and re-enters the business numerous times. Each time RUBALCAVA entered the business, he would steal items from the store.
10. At approximately 2301 hours, video surveillance captured RUBALCAVA inside the Dollar General Express setting fire to miscellaneous items located on aisle endcap. RUBALCAVA appears to exit the store after setting the fire.
11. The fire progresses for approximately four minutes before the sprinkler system activates.
12. RUBALCAVA was positively identified by Raleigh Police Officer Howard of the Downtown District as the subject setting the fire in the Dollar General Express. Officer Howard stated that he has had previous encounters with RUBALACAVA and he is seen almost daily in the Fayetteville Street and Moore Square area of downtown Raleigh.
13. On May 31, 2020, Officer Winkle of the Raleigh Police Department was on foot patrol in the 100 block of East Martin Street. Mr. Khoa Dinh, the owner of Budacai Restaurant located at 120 East Martin Street, Raleigh, NC advised Officer Winkle that he has video of his restaurant being broken into on May 30, 2020.
14. After reviewing the video surveillance, Officer Winkle identified one of the subjects that entered the business as RUBALCAVA. Officer Winkle is familiar with RUBALCAVA from previous encounters to include one that occurred just prior to speaking with Mr. Dinh. RUBALCAVA entered the restaurant three times. The second time RUBALCAVA enters, he steals the cash register. The third time RUBALCAVA enters, he attempts to catch a plant on fire just inside the restaurant. After the plant would not ignite, RUBALCAVA ignites a towel and places the burning towel on a countertop located behind the cash register. The towel burns itself out without growing in size.

15. An employee of Budacai stated that the business orders supplies such as cups from China and Vietnam which affects interstate commerce. Budacai buys their food from Concepts foods. Concept Foods stated that a majority of all food they deliver to Budacai originates outside the state of North Carolina.
16. RUBALCAVA is wearing the same clothing and hat in both incidents.
17. Raleigh Police Officer Howard interviewed RUBALCAVA in regards to the fire at Budacai Restaurant. RUBALCAVA admits in the interview that he set the fire so two subjects would leave him alone and run away, but stated "it didn't turn out right".
18. Based on the foregoing investigation, probable cause exists to believe that Richard RUBALCAVA, did violate Federal law including Title 18, United State Code Section 844(i) (two counts) and I respectfully request that a complaint warrant be issued for Richard RUBALCAVA's arrest.


Chad Edmunds
Senior Special Agent/Certified Fire Investigator
Bureau of Alcohol, Tobacco, Firearms, and Explosives

On this 17 day of June 2020, Chad Edmunds appeared before me via reliable electronic means, was placed under oath, and attested to the contents of this affidavit.


JAMES E. GATES
UNITED STATES MAGISTRATE JUDGE